IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Bail Appl..No. 4524 of 2007()

CRIME NO.33/07 OF NOORANAD EXCISE RANGE

: PETITIONER/1ST ACCUSED:

ABDUL SAMAD, S/O. NAGOOR MEERAN,
PRABHUDOR VEEDU, PEROOR KARASHMA MURI,
THAMARAKULAM VILLAGE, ALAPPUZHA.

BY ADV. SRI.SALIM V.S.

RESPONDENTS: COMPLAINANTS:

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1. THE EXCISE INSPECTOR,
NOORNAD RANGE, ALAPPUZHA.

2. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4524 of 2007

Dated this the 26th day of July, 2007

ORDER

Application for regular bail. The petitioner is the 1st accused. He along with co-accused faces allegations under the Kerala Abkari Act. The 2nd accused is an abkari contractor. The crux of the allegations is that when the police on receipt of discreet prior information from a driver of a vehicle which was used for transportation of liquor reached the house of the petitioner, it was foujd that 1050 litres of spirit were stored in the work area of the petitioner's house. The petitioner was arrested on the spot on 27.06.07. He continues in custody. The neighbour, the 2nd accused who is an abkari contractor is still at large.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He was not aware of the presence of the contraband articles in his work area. The neighbour, an abkari contractor had an animus against the petitioner. He had threatened the petitioner that he will falsely implicate the petitioner in an abkari crime. It is, in these circumstances, that the 2nd accused may have planted the contraband liquor in the premises of the petitioner. The petitioner may, in these circumstances, be granted regular bail, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The theory of false implication is not indicated at all on probabilities. It is idle to assume that such a large quantity of spirit found their way into the premises of the petitioner without his knowledge to falsely implicate the petitioner. It is idle to assume that such a large quantity of contraband article would be placed in the premises of the petitioner available to be seized by the investigators. In these circumstances regular bail may not be granted to the petitioner, prays the learned Public Prosecutor .

4. In the wake of opposition by the learned Public Prosecutor bail can be granted to the petitioner only if this Court is in a position to entertain both satisfactions contemplated under Section 41 A of the Kerala Abkari Act. In the facts and circumstances of the case to which I have already made brief reference, I am not at all persuaded to entertain either of those two satisfactions. I find merit in the opposition of the learned Public Prosecutor. In a case like this the investigator is certainly entitled to reasonable further time to complete the investigation.

3. This application is, in these circumstances, dismissed. I may hasten to observe that the petitioner shall be at liberty to move the courts below or this Court for bail again at a later stage of the proceedings, not, at any rate, prior to 10.08.2007. The investigator

shall in the meantime make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

rtr/-